

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:10-cv-396-RJC-DSC**

PATRICK RICHARDSON,

Plaintiff,

v.

**CASUAL MALE RETAIL GROUP,
INC. and CASUAL MALE RETAIL
STORE, LLC,**

Defendants.

ORDER

THIS MATTER is before the Court on Defendants' Motion to Dismiss¹ (Doc. No. 8) and accompanying memorandum (Doc. No. 9); Plaintiff's Amended Response in Opposition to Defendants' Motion to Dismiss (Doc. No. 14); Defendants' Reply to Plaintiff's Responses in Opposition to Defendants' Motion to Dismiss (Doc. No.15); and the Magistrate Judge's Memorandum and Recommendation (M&R) (Doc. No. 16) recommending denying as moot without prejudice the motion to dismiss. There were no objections filed to the M&R.

The plaintiff was granted leave to file, and filed, an Amended Complaint in this case (Doc. No. 18). It is well-settled that a timely filed amended pleading supersedes the original pleading, and that motions directed at superseded pleadings are to be denied as moot. See [Young v. City of Mount Ranier, 238 F.3d 567, 573 \(4th Cir. 2001\)](#) (amended pleading renders original pleading of no effect); [Colin v. Marconi Commerce Sys. Employees' Retirement Plan, 335 F. Supp. 2d 590, 614 \(M.D.N.C. 2004\)](#) (defendants' earlier motion for summary judgment as to one

¹ Subsequently, the Plaintiff voluntarily dismissed Defendant Casual Male Retail Group, Inc. but maintained its action against Defendant Casual Male Retail Store, LLC.

count of first amended complaint rendered moot by filing of plaintiff's second amended complaint); [Turner v. Kight, 192 F. Supp. 2d 391, 397 \(D.Md. 2002\)](#) (denying as moot motion to dismiss original complaint on grounds that amended complaint superseded original complaint). Thus, the filing of Plaintiff's amended complaint renders the defendants' pending motion to dismiss as moot.

IT IS, THEREFORE, ORDERED that Defendants' Motion to Dismiss (Doc. No. 8) is **DENIED** as moot.

Signed: May 12, 2011

A handwritten signature in black ink, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
Chief United States District Judge

